

RENEWED REQUEST FOR ISSUANCE OF <u>CERTIFICATE OF CORRECTION</u> FOR PATENT	PATENT NO.	6,740,133
	Issue Date	May 25, 2004
	Confirmation #	8420
	Application #	09/757,765
	Filing Date	01/10/2001
	First Inventor	HUNDLEY
	Docket #	P09522US00/BAS

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S I R:

In response to the Decision on Petition mailed October 28, 2009, petitioner hereby renews its request that a Certificate of Correction be issued removing the Assignee "Clean Fuel Technologies, L.L.C." from the front page of the above patent since the USPTO has confirmed that this entity was not an Assignee of the above patent, and no Assignment documents were filed with that name. For reasons as shown below, such a correction is appropriately made via a Certificate of Correction, and a suitable CERTIFICATE OF CORRECTION (form PTO/SB/44) is attached.

As reflected in the Decision on Petition mailed October 28, 2009, petitioner filed on June 8, 2009 a request to remove the name "Clean Fuel Technologies, L.L.C." from the front page of the patent since no Assignment documents were filed with that name, and this entity was not an Assignee of the above patent. The USPTO treated this request as a request under 37 C.F.R. § 3.81(b), but dismissed the petition since it was not clear to the USPTO whether the removal of the improper Assignee name was the type of clerical or typographical error the correction of which was appropriate under a Certificate of Correction.

However, at the same time, the USPTO confirmed that no assignment to Clean Fuel Technologies, LLC was of record with the USPTO, and indeed no such Assignment was ever made.

The Decision on Petition set forth the two criteria for issuing a Certificate of Correction as follows:

Two separate statutory requirements must be met before a Certificate of Correction for an applicant's mistake may issue. The first statutory requirement concerns the nature, i.e., type, of the mistake for which a correction is sought. The mistake must be:

- (1) of a clerical nature,
- (2) of a typographical nature, or
- (3) a mistake of minor character.

The second statutory requirement concerns the nature of the proposed correction. The correction must not involve changes which would:

- (1) constitute new matter or
- (2) require reexamination

The Decision on petition then went on to state what is meant by a change of "minor" character as follows:

A mistake is not considered to be of the "minor" character required for the issuance of a Certificate of Correction if the requested change would materially affect the scope or meaning of the patent. See also MPEP § 1412.04 as to correction of inventorship via certificate of correction or reissue.

Finally, the Decision on Petition indicated that Petitioner could file a renewed petition if it could establish that the improper inclusion of Clean Fuels Technologies, L.L.C. was a matter that could be corrected by a Certificate of correction and did not constitute new matter or require reexamination. As set forth below, both these criteria are met, and the issuance of the attached Certificate of Correction is appropriate.

As for the first of the two prongs of the entitlement for Certificate of Correction, and as indicated in the Decision on Petition, a Certificate of correction is appropriate where the mistake is: (1) of a clerical nature, (2) of a typographical nature, or (3) a mistake of minor character. *In re Arnott*, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991). The Decision on Petition also specifies what is considered "a mistake of minor character" by indicating that the requested change would not be considered "minor" in character if it "would materially affect the scope or meaning of the patent." In the present request for correction, the correction is directly solely to the Assignee and not to any substantive aspect of the patent such as its scope or meaning. Accordingly the requested change would be considered to be a mistake of a minor character and thus amenable to a Certificate of Correction as set forth in the *Arnott* case.

Further, with regard to the consideration of whether the mistake was minor in character, the Decision on Petition also cited to MPEP § 1412.04 as to correction of inventorship via certificate of correction or reissue. The relevant part of MPEP § 1412.04, namely the section on whether to make the change via a Certificate of Correction or a reissue application reads as follows:

I. CERTIFICATE OF CORRECTION AS A VEHICLE FOR CORRECTING INVENTORSHIP

While reissue is a vehicle for correcting inventorship in a patent, correction of inventorship **should be effected** under the provisions of 35 U.S.C. 256 and 37 CFR 1.324 **by filing a request for a Certificate of Correction** if:

(A) **the only change** being made in the patent is to **correct the inventorship**; and

(B) all parties are in agreement and **the inventorship issue is not contested**. (emphasis added)

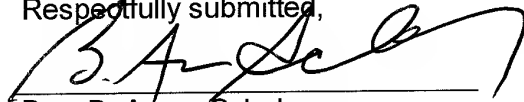
Under the criteria of MPEP § 1412.04, a Certificate of Correction is clearly appropriate to effect the removal of the improper Assignee from the face of the patent. The present case comports with MPEP § 1412.04 because the **only change** being sought by the Certificate of Correction is the correction of the Assignment information, namely the removal of the improper Assignee, and as the Decision on Petition correctly noted, there was no Assignment to Clean Fuels Technologies L.L.C. and thus **the assignment status is not contested**. The section cited in the Decision on Petition, namely MPEP § 1412.04, clearly would direct that a Certificate of Correction was the correct vehicle to remove the name of an improper Assignee.

Finally, under the second of the two prongs showing of the entitlement for Certificate of Correction, namely where the correction must not involve changes which would (1) constitute new matter or (2) require reexamination, this prong is satisfied as well. In particular, the USPTO recognizes that there was no assignment to Clean Fuels Technologies L.L.C. ever filed or recorded in the USPTO, and thus the fact that this entity should not be listed on the face of the patent is not new matter. Secondly, once again, since the correction of Assignee does not involve any substantive matter, the correction will not require reexamination in any way.

Accordingly, Petitioner has satisfied the criteria of the *In re Arnott* case relied upon in the Decision on Petition, and it is clear that the attached requested Certificate of Correction removing the name of the improper Assignee, Clean Fuels Technologies L.L.C. from the face of the patent is entirely appropriate.

In light of the foregoing, issuance of the attached Certificate of Correction is thus respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Aaron Schulman', written over a horizontal line.

Date: December 28, 2009

By: B. Aaron Schulman
Registration No.: 31,877

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

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PATENT NO. : 6,740,133
APPLICATION NO.: 09/757,765
ISSUE DATE : May 25, 2004
INVENTOR(S) : Joseph W. Hundley, Jr.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page at the field (73) Assignee, please remove "Clean Fuel Technologies, L.L.C., Hardy, VA (US)"

MAILING ADDRESS OF SENDER:
(Do not use Customer Number)

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